



# National Labor Relations Board

## Weekly Summary of NLRB Cases

Division of Information

Washington, D.C. 20570

Tel. (202) 273-1991

May 30, 2008

W-3158

CASES SUMMARIZED  
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*Al & John Inc., d/b/a Glen Rock Ham and Noel Echavarria Gonzalez* (22-CA-27477; 352 NLRB No. 69) Paterson, NJ May 22, 2008. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(3) and (1) of the Act when it discharged employee Noel Echavarria Gonzalez. In finding the violation, the Board did not rely on all of the factors cited by the judge. First, the Board found that Echavarria Gonzalez engaged in union activity by circulating a union petition among other employees. Second, the Board found that the Respondent had knowledge of that activity because Plant Manager Jon Udrija observed Echavarria Gonzalez circulating the petition. Finally, the Board found that the Respondent's proffered reasons for the discharge were pretextual. The Respondent had disciplined Echavarria Gonzalez for purported workplace misconduct on a day that the evidence of record reflects that he did not work. The Respondent used the discipline as a factor supporting the discharge. In finding evidence of pretext, the Board explicitly stated that it did not rely on the judge's findings as to whether the Respondent failed to act according to a disciplinary policy. [\[HTML\]](#) [\[PDF\]](#)

The Board also denied the General Counsel's cross-exception seeking compound interest computed on a quarterly basis for any backpay awarded. The Board was not prepared to deviate from its current practice of assessing simple interest.

No party excepted to the judge's finding that the Respondent did not violate Section 8(a)(1) by engaging in unlawful surveillance of Echavarria Gonzalez.

(Chairman Schaumber and Member Liebman participated.)

Charge filed by an Individual; complaint alleged violations of Section 8(a)(3) and (1). Hearing at Newark on Oct. 23 and 30, 2007. Adm. Law Judge Eleanor MacDonald issued her decision Feb. 13, 2008.

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*Hamilton Sundstrand* (33-CA-15303; 352 NLRB No. 65) Rockford, IL May 19, 2008. The Board adopted the finding of the administrative law judge that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to provide requested information to the Union. The Board found that the information requested by the Union in Nov. 2006 concerning the Respondent's temporary ("yellow badge") employees was relevant to the Union's policing of the Respondent's contractual obligation to make an "earnest effort" to find "non-traditional work" for laid-off unit employees. In finding that the Union demonstrated the relevance of the requested information, the Board rejected the Respondent's claim that the Union did not show that yellow badge work fits within the meaning of "non-traditional work" under Section 19.5C of the parties' collective-bargaining agreement. The Board also found that the General Counsel showed that the relevance of the information should have been, and was, apparent to the Respondent under the circumstances. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Schaumber and Member Liebman participated.)

Charge filed by Auto Workers (UAW) Local 592; complaint alleged violations of Section 8(a)(1) and (5). Hearing at Peoria on Nov. 13, 2007. Adm. Law Judge George Carson II issued his decision Jan. 16, 2008.

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*Mega Force Productions Corp.* (13-CA-44252; 352 NLRB No. 70) Chicago, IL May 23, 2008. The Board issued a Decision and Order on Feb. 28, 2008, granting the General Counsel's motion for default judgment on the ground that the Respondent had failed to file an answer to the complaint or a response to the Notice to Show Cause. 352 NLRB No. 27 (2008). The Board granted the Respondent's motion to vacate default judgment and for leave to file its appearance and answer to the complaint, and found that the documents in this case were inadvertently sent to an incorrect address. Accordingly, the Board vacated its prior Decision and Order and remanded the proceeding to the Regional Director for further processing consistent with its Order.

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(Chairman Schaumber and Member Liebman participated.)

Charge filed by an Individual; complaint alleged violation of Section 8(a)(1). The Board issued Decision and Order granting motion for default judgment on Feb. 28, 2008.

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*Wheeling Brake Block Mfg. Co. and Wheeling Brake Band & Friction Mfg. Co.* (8-CA-34764, 35543; 352 NLRB No. 67) Bridgeport, OH May 23, 2008. The Board adopted the findings of the administrative law judge that Respondent Wheeling Brake Block Mfg. Co. violated Section 8(a)(1) of the Act by telling employees that it was going to get rid of the Union and replace it with a union that it controlled, soliciting employees to assist in getting rid of the Union so that other employees would more readily accept the loss of the Union, implicitly or explicitly promising employees that by opposing the Union the employee would be recalled from layoff, and maintaining and enforcing an overly broad prohibition on union activity on its premises; Section 8(a)(3) and (1) by laying off and failing to recall employees for supporting the Union; and Section 8(a)(5) and (1) by repudiating the collective-bargaining agreement, including its seniority, pension contribution, and dues checkoff provisions, and refusing to recognize and bargain a successor collective-bargaining agreement with the Union. In his supplemental decision, the judge found that Wheeling Brake Block Mfg. Co. was properly a respondent in this case, rejecting that entity's contention that it shut down or went out of business in 1999 and that Wheeling Brake Band & Friction Mfg. Co. was the sole surviving employing entity. Wheeling Brake Block Mfg. Co. did not file exceptions to the judge's supplemental decision. [\[HTML\]](#) [\[PDF\]](#)

Because the General Counsel did not issue and serve an amended complaint on Wheeling Brake Band & Friction Mfg. Co., the Board, "out of an abundance of caution" did not "at this time" pass on whether Wheeling Brake Band & Friction Mfg. Co. is liable as a single employer with Wheeling Brake Block Mfg. Co. for the unfair labor practices found in this case. The Board stated, however, that the General Counsel may plead and litigate the question of Wheeling Brake Band & Friction Mfg. Co.'s derivative liability during the compliance stage of this proceeding.

(Chairman Schaumber and Member Liebman participated.)

Charges filed by Retail, Wholesale and Department Store Union, Local 379 and Food and Commercial Workers; complaint alleged violations of Section 8(a)(1), (3), and (5). Hearing at St. Clairsville, Nov. 16, 2005; Supplemental Hearing at Steubenville, March 14, 2007. Adm. Law Judge David I. Goldman issued his decision Dec. 9, 2005 and his Supplemental Decision May 31, 2007.

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*Windstream Corp.* (6-CA-35483; 352 NLRB No. 68) Meadville, PA May 23, 2008. The Board affirmed the administrative law judge's findings, to which no party excepted, that the Respondent violated Section 8(a)(1) of the Act by promulgating and maintaining a policy prohibiting employees from discussing their compensation, benefits, and personnel records or information with others. The Board granted the General Counsel and Charging Party's exceptions to the judge's failure to require the Respondent to post the Board's standard remedial notice, and the Board modified the Order accordingly. The Board also ordered the Respondent to post the notice on its intranet and transmit it to employees via e-mail, consistent with the Board's adoption of the judge's finding in *Windstream Corp.*, 352 NLRB No. 9 (2008), that the Respondent regularly communicates its employment policies to employees through e-mail. [\[HTML\]](#) [\[PDF\]](#)

Chairman Schaumber agreed to the Order based on the particular circumstances of this case, noting the absence of exceptions to the judge's finding in the earlier *Windstream* case discussed above or to the judge's instruction in the instant case that the Respondent communicate its rule modification to employees electronically.

(Chairman Schaumber and Member Liebman participated.)

Charge filed by Electrical Workers IBEW on behalf of its affiliated Locals 463, 1189, 1507, 1929, 2089, and 2374; complaint alleged violations of Section 8(a)(1). Hearing at Pittsburgh, June 5, 2007. Adm. Law Judge Wallace H. Nations issued his decision Aug. 9, 2007.

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### LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

*St. George Warehouse, Inc.* (Merchandise Drivers Local 641) Kearney, NJ May 20, 2008. 22-CA-23223, et al.; JD(NY)-18-08, Judge Steven Davis.

*Food & Commercial Workers Local 4* (an Individual) Whitefish, MT May 20, 2008. 19-CB-9660; JD(SF)-23-08, Judge James M. Kennedy.

*SK USA Cleaners Inc.*, (Journeyman Local 947) Garfield, NJ May 21, 2008. 22-CA-27954; JD(NY)-19-08, Judge Eleanor MacDonald.

*Green Valley Manor, L.L.C.* (Individuals) St. Louis, MO May 22, 2008. 14-CA-29124, et al.; JD(ATL)-14-08, Judge Lawrence W. Cullen.

*Moyer Packing Co. (Jobs With Justice) Souderton, PA May 22, 2008. 4-CA-35131; JD-22-08, Judge George Alemán.*

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**LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS  
IN REPRESENTATION CASES**

***(In the following cases, the Board considered exceptions to  
Reports of Regional Directors or Hearing Officers)***

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Oriana House, Inc., Akron, Cleveland and Tiffin, OH, 8-RC-16937, May 21, 2008  
(Chairman Schaumber and Member Liebman)*

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***(In the following cases, the Board adopted Reports of  
Regional Directors or Hearing Officers in the absence of exceptions)***

**DECISION AND CERTIFICATION OF RESULTS OF ELECTION**

*Mid-South Health Services, LLC, d/b/a Ashton Place Rehabilitation and Care Center,  
Memphis, TN, 26-RD-1140, May 19, 2008  
Orange County Chapter, NYSARC, Inc., Middletown, NY, 2-RC-23222, May 19, 2008  
Pine Tree Mechanical, Inc., Louisville, KY, 9-RC-18171, May 19, 2008*

**DECISION, ORDER AND DIRECTION OF SECOND ELECTION**

*O'Connor Woods Housing Corp. d/b/a O'Connor Woods, Stockton, CA, 32-RD-1536, May 19,  
2008 [setting aside election conducted on Nov. 2, 2007]  
DAP Products, Inc., Baltimore, MD, 5-RC-16190, May 23, 2008 [setting aside election  
conducted on Feb. 14 and 15, 2008]  
U.S. Corrugated, Inc., Bowling Green, KY, 26-RD-1150, May 23, 2008 [setting aside election  
conducted on March 28, 2008]*

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Globe Car Wash Corp. D/B/A Globe Airport Parking, Moon Township, PA, 6-RC-12623,  
May 20, 2008*

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***(In the following cases, the Board denied requests for review  
of Decisions and Directions of Elections (D&DE) and  
Decisions and Orders (D&O) of Regional Directors)***

*H.D. Supply Construction Supply, LTD d/b/a White Cap Construction Supply, 20-RC-18177,  
May 22, 2008 (Chairman Schaumber and Member Liebman)*

**ORDER [amending Regional Director's decision  
to exclude one employee from the bargaining unit,  
permitting four employees to vote under challenge,  
and denying the request for review in all other respects]**

*Marymount Manhattan College, Manhattan, NY, 2-RC-23151, May 22, 2008  
(Chairman Schaumber and Member Liebman)*

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***Miscellaneous Board Decisions and Orders***

**ORDER [affirming Regional Director's administrative dismissal]**

*Norbury Electric, LLC, Carthage, MO, 17-RM-860, May 20, 2008  
(Chairman Schaumber and Member Liebman)*

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